

United States or the District of Columbia (exclusive of air transportation within the State of Alaska) or in foreign or overseas supplemental air transportation, or (2) authorizing the holder to engage in supplemental air transportation of persons and their personal baggage between any point in any State of the United States or the District of Columbia, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand.

(d) *Agreement* means any oral or written agreement, contract, understanding, or arrangement, and any amendment, revision, modification, renewal, extension, cancellation, or termination thereof.

(e) *Cargo agent* means any person (other than a supplemental air carrier or one of its bona fide regular employees or an indirect air carrier lawfully engaged in air transportation under authority conferred by any applicable part of the economic regulations of the Board) who for compensation or profit (1) solicits, obtains, receives, or furnishes directly or indirectly, property or consolidated shipments of property for transportation upon the aircraft of supplemental air carriers; or (2) procures or arranges for air transportation of property or consolidated shipments of property upon aircraft of a supplemental air carrier by charter, lease, or any other arrangement.

(f) [Reserved]

(g) *Ticket agent* means any person (other than a supplemental air carrier or one of its bona fide regular employees) who for compensation or profit (1) solicits, obtains, receives, or furnishes directly or indirectly, passengers or groups of passengers for transportation upon the aircraft of a supplemental air carrier; or (2) procures or arranges for air transportation of passengers or groups of passengers upon aircraft of a supplemental air carrier by charter, lease, or any other arrangement.

(h) *Pro rata charter* means a charter, the cost of which is divided among the passengers transported.

(i) *Single entity charter* means a charter, the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

(j) *Mixed charter* means a charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

(k) *Person* means any individual, firm, association, partnership, or corporation.

(l) *Travel agent* means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

(m) *Charter group* means that body of individuals who shall actually participate in the charter flight.

(n) *Charter organization* means that organization, group, or other entity from whose members (and their immediate families) a charter group is derived.

(o)-(r) [Reserved]

(s) *Charter flight* means air transportation performed by supplemental air carriers in accordance with § 208.6.

(t) *Substitute service* means the performance by an air carrier of foreign or overseas air transportation, or air transportation between the 48 contiguous States, on the one hand, and the State of Alaska or Hawaii, on the other hand, in planeload lots pursuant to an agreement with another air carrier to fulfill such other air carrier's contractual obligations to perform such air transportation for the Department of Defense.

(u) *Indirect air carrier* means any citizen of the United States authorized to engage indirectly in air transportation.

(v) *Net worth* means the net stockholder equity as specified in form 41 balance sheet account 2995 of the *Uniform System of Accounts and Reports*.

(w) *Long-term wet lease* means a lease by which the lessor provides both an aircraft and its crew, which either (1) lasts more than 60 days, or (2) is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1096, 44 FR 6645, Feb. 1, 1979; ER-1249, 46 FR 47767, Sept. 30, 1981]

§ 208.3a Waiver.

(a) A waiver of any of the provisions of this part may be granted by the Board upon the submission by an air carrier of a written request therefor

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not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

(b) A request for a waiver of any of the provisions of §208.202b shall be accompanied by a list of the names, addresses, and telephone numbers of all the passengers on the flight to which the request relates.

(Approved by the Office of Management and Budget under control number 3024-0001)

[ER-803, 38 FR 14272, May 31, 1973, as amended by ER-1340, 48 FR 31013, July 6, 1983]

§208.4 [Reserved]

§208.5 Prior authorization of long-term wet leases to foreign air carriers.

(a) A direct air carrier shall not perform any flights for a direct foreign air carrier under a long-term wet lease unless it has obtained a statement of authorization under this section.

(b) Applications for a statement of authorization shall be submitted in letter form in three copies to the Civil Aeronautics Board, addressed to the Director, Bureau of International Aviation. A copy of the application shall also be served on the Federal Aviation Administration, addressed to the Director of Flight Operations, and on each certificated air carrier that is authorized to serve the same general area in which the proposed transportation is to be performed.

(c) The application shall describe the purpose and terms of the wet lease agreement. It shall also include documentation to establish the extent to which the country of the lessee's nationality deals with United States air carriers on the basis of reciprocity for similar wet leases, if such wet leases are not subject to a bilateral agreement and:

(1) The Board has not established that the country accords reciprocity,

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(2) The Board has found reciprocity defective in the most recent prior approval application involving the country; or

(3) Changes in reciprocity have occurred since the most recent Board finding for the country in question.

(d) Applications for a statement of authorization under this section shall be filed at least 45 calendar days before the date of the first proposed flight.

(e) Any party in interest may file a memorandum supporting or opposing an application. Three copies of each memorandum shall be filed within 7 business days after service of the application, and a copy shall be served on the applicant air carrier. Each memorandum shall set forth the reasons why the application should be granted or denied, accompanied by whatever data, including affidavits, the Board is requested to consider.

(f)(1) Unless otherwise ordered by the Board, each application and memorandum filed in response will be available for public inspection at the Regulatory Affairs Division of the Bureau of International Aviation immediately upon filing. Notice of the filing of all applications will be published in the Board's Weekly List of Applications Filed.

(2) Any person objecting to public disclosure of any information in an application or memorandum must state the grounds for the objection in writing. If the Board finds that disclosure of all or part of the information would adversely affect the objecting person, and that the public interest does not require disclosure, it will order that the injurious information be withheld.

(g) The Board will issue a statement of authorization if it finds that the proposed wet lease is in the public interest. Statements of authorization may be conditioned or limited. In determining the public interest the Board will consider (but not be limited to) the following factors:

(1) The extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party, or should be so covered;

(2) The extent to which the foreign country involved deals with United States carriers on the basis of substantial reciprocity; and